

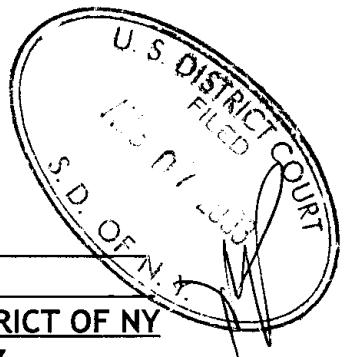
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKDocument # 29

Danillo Maldonado

USCA NO. _____

-v-

James J. Walsh

SDNY NO. 07cv2999
JUDGE: AKH
DATE: 8/7/2008

INDEX TO THE RECORD ON APPEAL

PREPARED BY (NAME) Nezam D.
 FIRM APPEALS SECTION
 ADDRESS UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF NY
500 PEARL STREET, NEW YORK, NEW YORK 10007
 PHONE NO. (212) 805-0636

DISTRICT COURT DOCKET ENTRIES -----

DOCUMENTS DOC#

Clerk's Certificate

See Attached List of Numbered Documents

Only Circled Documents Included

3 Vols.

Original Record

Supplemental Record

The record in the above entitled case was indexed to the U.S.C.A.
for the Second Circuit on the 7th Day of August, 2008.

**United States District Court for
the Southern District of New York**

Danillo Maldonado

Date: 8/7/2008

U.S.C.A. # _____

U.S.D.C. # 07cv2999

-v-

D.C. JUDGE AKH

James J. Walsh

Clerk's Certificate

I, J. Michael McMahon, Clerk of the Court of the United States District Court for the Southern District of New York, do hereby certify that the certified copy of the docket entries and the original filed papers numbered 1 Through 28, inclusive, constitutes the Original record on appeal in the above entitled proceedings except for the following missing documents:

| <u>Date Filed</u> | <u>Document Description</u> |
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| <u>**BALANCE OF FILES MISSING AT THIS TIME</u> | |
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In Testimony Whereof, I have caused the seal of said Court to be hereunto affixed, at the City of New York, this 7th Day of August In this year of our Lord, Two Thousand and Eight, and the Independence of the United States this 233rd year.

J. Michael McMahon, Clerk
By 
Deputy Clerk

APPEAL, CLOSED, HABEAS, PRO-SE

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:07-cv-02999-AKH
Internal Use Only

Maldonado v. Walsh
Assigned to: Judge Alvin K. Hellerstein
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 04/16/2007
Date Terminated: 06/30/2008
Jury Demand: None
Nature of Suit: 530 Habeas Corpus (General)
Jurisdiction: Federal Question

| Date Filed | # | Docket Text |
|------------|----|---|
| 04/16/2007 | 1 | DECLARATION IN SUPPORT OF REQUEST TO PROCEED IN FORMA PAUPERIS. Document filed by Danillo Maldonado.(laq) (Entered: 04/18/2007) |
| 04/16/2007 | 2 | PETITION FOR WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. 2254..Document filed by Danillo Maldonado.(laq) (Entered: 04/18/2007) |
| 04/16/2007 | | Magistrate Judge Douglas F. Eaton is so designated. (laq) (Entered: 04/18/2007) |
| 04/16/2007 | 3 | 60 DAYS ORDER.... Petitioner is granted leave to proceed in forma pauperis and the Clerk of Court is directed to assign a docket number to this action, however, for the reasons set forth, petitioner is directed to amend his petition within 60 days of the date of the instant order. Accordingly, petitioner is hereby granted leave to submit an amended petition in compliance with the instant order. Should petitioner decide to submit an amended petition, it must be submitted to this Court's Pro Se office within 60 days of the date of this order, be captioned as an "AMENDED PETITION" and bear the same docket number as the instant order. For petitioner's convenience, an amended petition form is attached to the instant order. No answer shall be required at this time and all further proceedings shall be stayed for 60 days or until petitioner has complied with the instant order. If petitioner fails to comply with the instant order within the time allowed, the instant action will be dismissed. Once submitted, the amended petition shall be reviewed for compliance with the instant order and substantive sufficiency and then, if proper, the case shall be reassigned to a district judge in accordance with the procedures of the Clerk's Office. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability shall not issue. The Court certifies pursuant to 28 U.S.C. 1915(a)(3) that any appeal from the instant order would not be taken in good faith. (Signed by Judge Kimba M. Wood on 4/16/07) (laq) (Entered: 04/18/2007) |
| 05/01/2007 | 4 | MOTION to Amend/Correct 2 Petition for Writ of Habeas Corpus. Attached is Affidavit in Support. Document filed by Danillo Maldonado.(djc) (Entered: 05/03/2007) |
| 05/29/2007 | 5 | ORDER granting 4 Motion to Amend/Correct. Petitioner is hereby granted leave to submit a second amended petition in compliance with the instant order. Should petitioner decide to submit an amended petition, it must be submitted to this Court's Pro Se Office within thirty days of the date of the instant order, be captioned as an "Amended Petition" and bear the same docket number as the instant order. For petitioner's convenience, an amended petition form is attached to the instant order. Petitioner is again advised that any amended petition submitted will completely replace the petitions he has already filed. Thus, any arguments that petitioner wishes to preserve from the first two petitions must be listed again in his second amended petition. No answer is required at this time and all further proceedings shall be stayed for sixty days or until petitioner has complied with the instant order. If petitioner fails to comply with the instant order within the time allowed, the instant action will be dismissed. Once submitted, the second amended petition shall be reviewed for compliance with the instant order and substantive sufficiency and then, if proper, the case shall be reassigned to a district judge in accordance with the procedures of the Clerk's Office. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability shall not issue. The Court certifies pursuant to 28 U.S.C. 1915(a)(3) that any appeal from the instant order would not be taken in good faith. SO ORDERED. (Signed by Judge Kimba M. Wood on 5/29/2007) (jmi) (Entered: 06/01/2007) |
| 06/13/2007 | 6 | AMENDED PETITION amending 2 Petition for Writ of Habeas Corpus against James J. Walsh.Document filed by Danillo Maldonado. Related document: 2 Petition for Writ of Habeas Corpus filed by Danillo Maldonado.(cd) (Entered: 06/27/2007) |
| 06/13/2007 | 7 | MEMORANDUM OF LAW in Support re: 6 Amended Petition. Document filed by Danillo Maldonado. (pl) (Entered: 06/28/2007) |
| 06/27/2007 | 8 | NOTICE OF CASE REASSIGNMENT to Judge Alvin K. Hellerstein. Judge Kimba M. Wood is no longer assigned to the case. (jeh) (Entered: 07/06/2007) |
| 06/27/2007 | | Mailed notice to the attorney(s) of record. (jeh) (Entered: 07/06/2007) |
| 08/17/2007 | 9 | APPLICATION to Appoint Counsel pursuant to 18 U.S.C. 3006(A)(g) (Habeas Corpus Petition). Document filed by Danillo Maldonado.(dle) (Entered: 08/30/2007) |
| 09/11/2007 | 10 | ORDER denying 9 Application to Appoint Counsel pursuant to 18 U.S.C. 3006(A)(g)(Habeas Corpus Petition) without prejudice to its renewal. (Signed by Judge Alvin K. Hellerstein on 9/6/07) (dle) (Entered: 09/11/2007) |
| 02/08/2008 | 11 | ORDER. The respondent shall file an answer or other pleading to the petition within 60 days of the date of this Order, along with all transcripts, including sentencing minutes, trial court decisions, appellate decisions, and all briefs in the trial and appellate courts directly relevant to the matters raised in the petition; The Clerk of the Court shall serve, by certified mail, return receipt requested, a copy of this Order and the underlying petition upon the respondents, the Atty General of the State of NY, Andrew M. Cuomo, and District Atty of Bronx county, Robert Johnson. The Clerk of the Court shall also serve, by certified mail, return receipt requested, a copy of this Order upon the petitioner; Petitioner shall have 30 days from the date on which he receives respondent's answer to file a response thereto. The petition will be considered fully submitted as of that date. (Signed by Judge Alvin K. Hellerstein on 1/3/08); copy of docmt given to dkt assistants on 2/11/08 for processing. (djc) Modified on 2/11/2008 (djc). (Entered: 02/08/2008) |
| 02/29/2008 | 12 | ENDORSED LETTER addressed to Judge Alvin K. Hellerstein from Noah Chamoy dated 2/26/08 re: Request for an extension of time to respond to the petition to 4/7/08. ENDORSEMENT: So ordered. James J. Walsh answer due 4/7/2008. (Signed by Judge Alvin K. Hellerstein on 2/29/08) (cd) (Entered: 02/29/2008) |

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| 03/28/2008 | 13 | AFFIDAVIT of Noah J. Chamoy in Opposition re: 2 Petition for Writ of Habeas Corpus. Document filed by James J. Walsh. (rw) (Entered: 03/31/2008) |
| 03/28/2008 | 14 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/99, held on 11/20/2000 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 15 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210-1999, held on 1/8/2001 and 1/10/2001 before Judge Patricia Ann Williams.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 16 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/1999, held on 1/10/2001 before Judge Patricia Ann Williams.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 17 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/1999, held on 1/10/2001 and 1/12/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 18 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/1999, held on 2/20-2/23/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 19 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/99, held on 2/26/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 20 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/99, held on 2/27/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 21 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/1999, held on 2/27/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 22 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/99, held on 2/27/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 23 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/1999, held on 2/28/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 24 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/1999, held on 3/2/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 03/28/2008 | 25 | STATE COURT TRANSCRIPT of proceedings in the Supreme Court, County of New York, Case Number 5210/1999, held on 4/13/2001 before Judge Phylis Skoot Bamberger.(mbe) (Entered: 04/01/2008) |
| 06/27/2008 | 26 | ORDER DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS Petitioners writ of habeas corpus is denied, since he has failed to show that the state courts ruled in violation of the Constitution or laws of the United States. For the reasons set forth in this order, petitioners petition for a writ of habeas corpus is denied. Further, Judge Hellerstein denies a certificate of appealability, for there has not been a substantial showing of the denial of a constitutional right. (Signed by Judge Alvin K. Hellerstein on 6/27/08) (mme) (Entered: 06/27/2008) |
| 06/27/2008 | | Transmission to Judgments and Orders Clerk. Transmitted re: 26 Order,,, to the Judgments and Orders Clerk. (mme) (Entered: 06/27/2008) |
| 06/30/2008 | 27 | CLERK'S JUDGMENT That for the reasons stated in the Court's Order dated June 27, 2008, the petition for a writ of habeas corpus is denied; accordingly, the case closed; the Court finds that because petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. (Signed by J. Michael McMahon, clerk on 6/30/08) (Attachments: # 1 notice of right to appeal)(ml) (Entered: 06/30/2008) |
| 06/30/2008 | | Mailed notice of Right to Appeal to Pro Se Litigant(s): Danillo Maldonado. (ama) (Entered: 07/01/2008) |
| 07/22/2008 | 28 | NOTICE OF APPEAL from 27 Clerk's Judgment. Document filed by Danillo Maldonado. Copies mailed to attorney(s) of record: Attorney General, NYS. (tp) (Entered: 08/04/2008) |
| 07/22/2008 | | Appeal Remark as to 28 Notice of Appeal filed by Danillo Maldonado. \$455.00 APPEAL FEE DUE. IFP REVOKED 5/29/00. COA DENIED 6/27/08. (tp) (Entered: 08/04/2008) |
| 08/04/2008 | | Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: 28 Notice of Appeal. (tp) (Entered: 08/04/2008) |
| 08/04/2008 | | Transmission of Notice of Appeal to the District Judge re: 28 Notice of Appeal. (tp) (Entered: 08/04/2008) |